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Exhibit No. 19

Date 3-9-09

CE No. SB 237

Notice 2009-__

AUTISM COVERAGE

This notice is issued to advise all entities subject to section 635.2 of the act of May 17, 1921 (P.L. 682, No. 284), known as the Insurance Company Law of 1921 (added by section 2 of Act 62 of 2008) (Act 62 or the Act) (40 P.S. §764h) of their obligations under Pennsylvania law in the provision of coverage for autism benefits. Pennsylvania law, in Act 62, requires coverage of the diagnostic assessment and treatment of autism spectrum disorders by certain group insurance policies or contracts. The Department has been asked whether autism is a mental health condition subject to the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA). P.L. 110-343, 122 Stat. 3881 (October 3, 2008) at §§511, 512, amending, *inter alia*, section 2705 of the Public Health Service Act, 42 U.S.C. §300gg-5. Additionally, the Department has been asked how the "general exclusions or limitations" language in the Act should be applied. Accordingly, the Insurance Department releases the following guidance concerning the provision of benefits under the Act.

APPLICABILITY OF MHPAEA

The Department interprets Act 62's autism mandate as subject to the requirements of the MHPAEA. Specifically, autism as defined in Act 62 is a "mental health condition" to which the mental health parity provisions of the MHPAEA apply. 42 U.S.C. §300gg-5(e)(4) (as amended by the MHPAEA). Therefore:

- If a group insurance policy or contract contains annual or lifetime financial limits, limits for mental health benefits may be no less than limits for substantially all medical and surgical benefits. For example, if a policy's medical and surgical benefits have a lifetime or annual limit of \$1 million, then the mental health benefits, including the mandated autism benefits, may not have a lifetime or annual limit of *less* than that amount. Likewise, if a policy's medical and surgical benefits have no lifetime or annual limits, neither may the mental health benefits, including the mandated autism benefits, have any lifetime or annual limits. Accordingly, a policy or contract may not limit mental health benefits, including the mandated autism benefits, to a maximum of \$36,000 annually (or any adjusted amount) unless it limits substantially all medical and surgical benefits provided in the policy or contract to that same amount.

42 U.S.C. §300gg-5(a)(1), (2).

Further,

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- Any financial limitations (such as deductibles, copayments, coinsurance and out-of-pocket expenses) placed on mental health benefits, including the mandated autism coverage, may be "no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage)."
- A policy may not impose "separate cost sharing requirements that are applicable only with respect to mental health" benefits.
- Treatment limitations on mental health benefits, including the mandated autism coverage, may not be any more "restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage)."
- A policy may not impose "separate treatment limitations that are applicable only with respect to mental health" benefits.

42 U.S.C. 300gg-5(a)(3) (added by the MHPAEA).

EXCLUSIONS OR LIMITATIONS

Act 62 mandates coverage of the "treatment of autism spectrum disorders", and defines that term to include "medically necessary pharmacy care, psychiatric care, psychological care, rehabilitative care and therapeutic care" prescribed and provided in accordance with the Act. 40 P.S. §764h(f)(14). In addition, the Act also provides that the autism coverage "shall not be subject to any limits on the number of visits to an autism service provider for treatment of autism spectrum disorders." 40 P.S. §764h(b). However, the Act does allow a carrier to apply "general exclusions or limitations" to the autism spectrum disorder coverage "to the same extent as other medical services covered by the policy." 40 P.S. §764h(c). The Department has been asked whether these three subsections are incongruent. They are not. The Department interprets these provisions to be in consonance with each other as follows:

- Those types of treatment for autism spectrum disorders specifically delineated by Act 62 – "pharmacy care, psychiatric care, psychological care, rehabilitative care and therapeutic care" – must be provided to the extent such treatments are medically necessary and prescribed and provided as set forth in the law, irrespective of whether those types of care are otherwise excluded by the policy.
- Those types of services or treatments for autism spectrum disorders not specified by Act 62 may be subject to "general exclusions" of a policy pursuant to 40 P.S. §764h(c), provided they are excluded "to the same extent" as for other medical

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services covered by the policy. By way of example, if a policy generally excludes acupuncture treatment, and an autism provider believes that acupuncture may provide some benefit to his autism patient, that particular treatment may nonetheless be excluded from the mandated coverage.

- A policy may impose general limitations, such as scope and duration limitations, on coverage for autism spectrum disorders so long as such limitations are imposed “to the same extent” as those imposed upon other medical services covered by the policy. For example, if a policy or contract requires all medical services to be provided by a participating provider as a prerequisite for payment of services, autism services may also be required to be provided by a participating provider as a prerequisite for payment of those services.
- Specific limitations on number of visits are impermissible pursuant to 40 P.S. §764h(b) (disallowing a limitation on the “number of visits to an autism service provider for treatment of autism spectrum disorders”).

Questions regarding this notice may be addressed to _____, Insurance Department, 13th Floor, Strawberry Square, Harrisburg, PA 17120 by letter or via e-mail at _____.

Joel Ario
Insurance Commissioner